



U.S. Department of Justice

*United States Attorney
Western District of New York*

*Federal Center 716/843-5700
138 Delaware Avenue fax 716/551-3052
Buffalo, New York 14202 Writer's Telephone: 716/843-5881
Casey.Chalbeck@usdoj.gov*

October 30, 2024

VIA PACER

Honorable Lawrence J. Vilardo
United States District Court Judge
2 Niagara Square
Buffalo, New York 14202

**RE: Motion to Show Cause
United States v. Gogolack, et al., 23-CR-99**

Dear Judge Vilardo:

On September 30, 2024, United States Magistrate Judge H. Kenneth Schroeder, Jr., issued a search warrant authorizing agents from the FBI to retrieve a DNA sample from defendant Simon Gogolack. On October 7, 2024, the FBI attempted to execute that warrant. *See* Mot. to Show Cause at 1, (dated Oct. 17, 2024). Mr. Gogolack refused to comply and made statements that agents interpreted as threats. *See id.* On October 17th, the undersigned filed a motion to show cause related to Mr. Gogolack's contempt. *See generally id.* The Court scheduled a hearing on the government's motion for October 23, 2024, at which time the Court was also to hear oral argument regarding the government's appeal of the Magistrate Court's finding of bad faith and imposition of sanctions. Prior to that hearing, the undersigned conferred with Mr. Gogolack's counsel, who stated that Mr. Gogolack would comply with the search warrant.¹ Based on that representation, the undersigned did press the government's motion to show cause during the October 23rd hearing.

On October 29, 2024, special agents with the FBI traveled from Buffalo to Ohio, where Mr. Gogolack is detained, to acquire a DNA swab from him. Once again, Mr. Gogolack refused to provide a sample. Furthermore, Mr. Gogolack stated, in sum and substance, that he only told his attorneys he would comply with the warrant to frustrate and inconvenience the FBI when they ultimately attempted to obtain the sample.

Due to Mr. Gogolack's repeated contempt, the government would request a hearing on its motion to show cause. Moreover, insofar as Mr. Gogolack claims that there is "no good cause to support" the government's request that he only be permitted to view discovery in this case with an attorney present, *see* Resp. in Opp. to Gov. Prop. Protective Order at 2, ECF No. 280, (dated Oct.

¹ On October 25th, the Court reached out to counsel for the government and Mr. Gogolack to inquire as to the status of the government's motion. The government asked the Court to hold the motion in abeyance until Mr. Gogolack complied with the warrant.

29, 2024), his contemptuous, deceitful conduct, by itself, is a basis to place reasonable restrictions on his access to the discovery.²

Very respectfully,

TRINI E. ROSS
United States Attorney

BY: Casey L. Chalbeck
Assistant United States Attorney

² In addition, as has been previously raised in this litigation, Mr. Gogolack made a Facebook post threatening to sell his discovery.